

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

**TORI GANDIA**

§

*Plaintiff,*

§

v.

**CIVIL ACTION NO. 3:21-cv-1275**

**USAC AIRWAYS 693, LLC,**

§

*Defendant.*

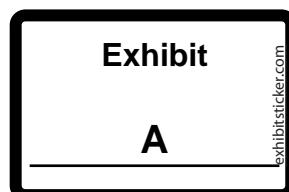
§  
§

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**DEFENDANT USAC AIRWAYS 693, LLC'S INDEX OF DOCUMENTS FILED WITH  
REMOVAL**

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Exhibit A	-	Index of Documents
Exhibit B	-	State Court Docket Sheet.
Exhibit C	-	Plaintiff's Original Petition
Exhibit D	-	Civil Cover Sheet for Dallas County
Exhibit E	-	Letter to request citation for service



**Exhibit****B**

exhibitsticker.com

**Case Information**

DC-21-04886 | TORI GANDIA vs. USAC AIRWAYS 693, LLC

Case Number  
DC-21-04886  
File Date  
04/19/2021

Court  
298th District Court  
Case Type  
EMPLOYMENT

Judicial Officer  
TOBOLOWSKY, EMILY  
Case Status  
OPEN

**Party**

PLAINTIFF  
GANDIA, TORI

Active Attorneys ▾  
Lead Attorney  
CROUCH, JOHN HENRY  
Retained

DEFENDANT  
USAC AIRWAYS 693, LLC

Address  
THROUGH SECRETARY OF STATE  
3405 AIRPORT RD. SUITE 207 HANGER B  
ALLENTOWN PA 18109

**Events and Hearings****APP 2**

04/19/2021 NEW CASE FILED (OCA) - CIVIL

04/19/2021 ORIGINAL PETITION ▾

ORIGINAL PETITION

04/19/2021 CASE FILING COVER SHEET ▾

COVER SHEET

04/27/2021 REQUEST FOR SERVICE ▾

CORRESPONDENCE LETTER

04/27/2021 ISSUE CITATION COMM OF INS OR SOS

05/05/2021 CITATION SOS/COI/COH/HAG ▾

Unserved

Anticipated Server

ESERVE

Anticipated Method

Comment

USAC AIRWAYS 693, LLC

## Financial

GANDIA, TORI

Total Financial Assessment	\$304.00
Total Payments and Credits	\$304.00

4/21/2021	Transaction Assessment	\$292.00
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4/21/2021	CREDIT CARD - TEXFILE (DC)	Receipt # 24499-2021- DCLK	GANDIA, TORI	(\$292.00)
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4/29/2021	Transaction Assessment	\$12.00
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4/29/2021	CREDIT CARD - TEXFILE (DC)	Receipt # 26630-2021- DCLK	GANDIA, TORI	(\$12.00)
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**APP 3**

## Documents

COVER SHEET

ORIGINAL PETITION

CORRESPONDENCE LETTER

NO. DC-21-04886

**TORI GANDIA,**

**Plaintiff,**

**vs.**

**USAC AIRWAYS 693, LLC,**

**Defendant.**

**§ IN THE DISTRICT COURT**

**§**

**§ OF DALLAS COUNTY, TEXAS**

**§**

**§**

**§ 298th**

**§ JUDICIAL DISTRICT**

**Exhibit**

**C**

**PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes Plaintiff, Tori Gandia ("Gandia" or "Plaintiff") and files this her Original Petition against USAC Airways 693 LLC, a.k.a. Discovery Jets ("Discovery Jets" or "Defendant") and in support thereof would show the Court as follows:

I.

**Introduction**

1.01 Plaintiff would show the Court that Defendant wrongfully terminated her employment. This termination was done in violation of the Texas Labor Code due to gender discrimination and in retaliation for a report of sexual harassment, as well as for making a safety complaint (which is being brought before OSHA).

1.02 Pursuant to Rule 47 of the Texas Rules of Civil Procedure, Plaintiff seeks monetary relief over \$200,000 but not more than \$1,000,000.

II.

**Parties**

2.01 Gandia is an individual currently residing in the State of Texas. She may be contacted through the undersigned counsel. The last three digits of Plaintiff's social security number

are 6697.

2.02 Defendant, USAC Airways 693, LLC d.b.a. Discovery Jets (“Discovery Jets”), is a Pennsylvania corporation with its principal place of business located at 3405 Airport Rd Suite 207 – Hanger B, Allentown, PA 18109. Claimant was based at a facility at 5900 NW24th Way, Hanger 8, Fort Lauderdale, FL 33309, but performed assignments covering many states, including Texas where she resides. Respondent has Texas clients, and provided air services within the State of Texas. Such defendant has done business in the State of Texas by virtue of recruiting a Texas resident, directly or through an intermediary located in this state, for employment inside or outside this state, and by contracting with a Texas resident for performance of a contract to be performed in part in this state. Tex. Civ. Prac. & Rem. Code §17.042. By virtue of such activity and the conduct more particularly described herein, such defendant is deemed to have appointed the Secretary of State of Texas as its agent for service of process. Defendant may therefore be served by delivering duplicate copies of the citation and petition herein to the Secretary of State as agent for such defendant. Such process may be forwarded by the Secretary of State by registered or certified mail to the address given above for the home office.

III.

**Jurisdiction and Venue**

3.01 This Court has jurisdiction because the amount in controversy exceeds the jurisdictional minimum for this Court.

3.02 Venue is proper in Dallas County, Texas by virtue of the fact that all or part of the cause of action accrued in Dallas County. Tex. Civ. Prac. & Rem. Code §15.002.

IV.

**Request for Disclosure**

4.01 Pursuant to Rule 194, you are requested to disclose within fifty (50) days of service of this Petition and Request for Disclosure the information or material described in Rule 194(a)-(l) of the Texas Rules of Civil Procedure.

V.

**Factual Background**

5.01 Complainant was hired by USAC Airways 693 d.b.a. Discovery Jets, a private aircraft rental and management company, in approximately Oct. 2019. Complainant was hired to work as a first officer pilot and/or co-pilot on an executive Citation X jet based out of Fort Lauderdale, Florida with clients located across the country including in Dallas and Houston, Texas.

5.02 Complainant began working under Bradley Wernke after his promotion to Captain in approximately March of 2020. In this new position, Capt. Wernke started engaging in sexually harassing behavior directed towards complainant which was reported on multiple occasions to the Director of Operations and the Chief Pilot. For example, Wernke would tell Claimant how “he knew we would be together one day,” and would hit her rear end when she leaned over in the cockpit. On another occasion, Claimant was cleaning the back of the airplane when Wernke blocked the only exit, and demanded a kiss before she could pass. On a separate occasion, Wernke stopped her in the aisle of the airplane, grabbed her arm and made her touch his private parts. Claimant rebuffed Wernke’s advances, but that only caused him to become belligerent and verbally demeaning. He would say things such as “You are an idiot and know nothing,” and “You will only speak when I say so in the middle of a flight.”

5.03 Claimant had reason to be concerned for her personal safety. Wernke had a criminal

record for domestic violence and could not fly to Canada due to a second charge filed against him in that jurisdiction.

5.04 Wernke's behavior also became a safety threat to the passengers. During the summer of 2020, Plaintiff worked with Captain Wernke seeking approval for op specs for Caribbean flying with the FAA. Despite passing her portion, Capt. Bradley failed his portion requiring rechecks at a later date. Aware of deficiencies and protocol, Capt. Wernke refused to allow First-Officer Gandia to brief approaches and limited her radio calls endangering the flight path and safety of ground civilians and aircraft of intersecting flight routes.

5.05 Following incidents of endangerment and sexual harassment, Complainant filed a complaint with the FAA and with internal HR after complaints to the COO and Chief Pilot were ignored. This placed Discovery Jets under official investigation. Respondent Discovery Jets terminated Plaintiff's employment in retaliation. Plaintiff was notified that they were parking her aircraft despite immediately hiring two new Citation X pilots. Plaintiff was told she was fired because she couldn't "get along" with the Captain of the flight. Obviously, the reason she could not "get along" was that he wanted her to acquiesce to his desire to violate FAA safety regulations and reciprocate his sexual advances.

5.06 Complainant was discharged from her job in approximately August 2020. She was informed that no other planes were available for her work and no furlough option was available despite such offering to all other employees present in the company. Thus, she was treated more adversely than other pilots.

**VI.**

**First Count**

**Texas Labor Code**

6.01 Plaintiff incorporates the foregoing provisions as though set forth herein verbatim.

6.02 Plaintiff is a female who worked for Defendant as a pilot, and who engaged in protected activity under the Texas Labor Code by reporting sexual harassment.

6.03 Defendant is an “employer” within the meaning of the Texas Labor Code. Plaintiff jointly filed a charge of discrimination with the EEOC and TWC, and has since received a “right to sue letter” and “Notice of Right to File Civil Action.” Plaintiff files this action within 60 days of her letter from the TWC.

6.04 Defendant has intentionally discriminated against Plaintiff in the terms and conditions of her employment by failing to stop reported sexual harassment or conduct a meaningful investigation. The harassment was severe and pervasive, and Plaintiff reported it in good faith. The harassment was continuing in nature over a period of time until termination.

6.05 Defendant then terminated Plaintiff because of her sex and because she engaged in protected conduct. The male harasser was not disciplined or terminated, as far as Plaintiff is aware.

6.06 Such discrimination by Defendant against Plaintiff was intentional. Accordingly, Plaintiff is entitled to recover damages from Defendant for back pay, front pay, benefits, future pecuniary losses, including retirement pay, emotional pain and suffering, inconvenience, loss of enjoyment of life, other non-pecuniary losses and compensatory damages under state law. Plaintiff is also entitled to recover all costs of court and attorney’s fees.

VII.

**Jury Demand**

7.01 Plaintiff demands trial by jury of all claims asserted herein.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays the Court cite Defendant to appear and answer this Petition and that on final hearing Plaintiff have judgment for the following categories of relief:

- 1) Judgment for back pay and front pay and all past and future lost benefits against the Company;
- 2) Non-pecuniary damages for mental and emotional distress, loss of enjoyment of life, and inconvenience Plaintiff has experienced and endured as a result of the discriminatory actions of the Company, as well as punitive damages as allowed by law;
- 3) The costs and expenses incurred by Plaintiff in seeking new employment;
- 4) Reinstatement to Plaintiff's job with appropriate injunctive relief to prevent further retaliation and intimidation, or in the alternative, front pay;
- 5) Prejudgment and post-judgment interest at the maximum legal rate;
- 6) Attorney's fees;
- 7) Experts' fees;
- 8) All costs of court; and
- 9) Such other and further relief to which Plaintiff may be justly entitled.

Dated: April 13, 2021.

Respectfully submitted,

**KILGORE & KILGORE, PLLC**

By: /s/ John H. Crouch, IV

John H. Crouch, IV

SBN 00783906

[jhc@kilgorelaw.com](mailto:jhc@kilgorelaw.com)

3109 Carlisle  
Dallas, Texas 75204-2471  
214/969-9099 - Telephone  
214/953-0677 - Facsimile

**ATTORNEYS FOR PLAINTIFF**  
**TORI GANDIA**

## CIVIL CASE INFORMATION SHEET

DC-21-04886

FELICIA PITRE  
DISTRICT CLERK  
DALLAS CO. TEXAS

CAUSE NUMBER (FOR CLERK USE ONLY):

COURT (FOR CLERK USE ONLY):

ALICIA MATA DEPUTY

STYLED Tori Gandia v. USAC Airways 693, LLC

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

1. Contact information for person completing case information sheet:		Names of parties in case:	Person or entity completing sheet is:
Name: <u>John H. Crouch, IV</u>	Email: <u>jhc@kilgorelaw.com</u>	Plaintiff(s)/Petitioner(s): <u>Tori Gandia</u>	<input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other: _____
Address: <u>3109 Carlisle St.</u>	Telephone: <u>214-379-0811</u>	Defendant(s)/Respondent(s): <u>USAC Airways 693, LLC</u>	Additional Parties in Child Support Case: _____
City/State/Zip: <u>Dallas, TX 75204</u>	Fax: <u>214-379-0844</u>	State Bar No: <u>00783906</u>	Custodial Parent: _____
Signature: <u>John H. Crouch</u>			
Non-Custodial Parent: _____			
Presumed Father: _____			
[Attach additional page as necessary to list all parties]			

Exhibit

D

## 2. Indicate case type, or identify the most important issue in the case (select only):

Civil		Family Law		
Contract	Injury or Damage	Real Property	Marriage Relationship	Post-judgment Actions (non-Title IV-D)
Debt/Contract <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract:	<input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <i>Malpractice</i> <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability	<input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property: _____	<input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void <i>Divorce</i> <input type="checkbox"/> With Children <input type="checkbox"/> No Children	<input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other
Foreclosure <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract:	<input type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises <i>Product Liability</i> <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product:  <input type="checkbox"/> Other Injury or Damage: _____	<input type="checkbox"/> Related to Criminal Matters  <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other: _____	<input type="checkbox"/> Other Family Law  <input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other: _____	<input type="checkbox"/> Parent-Child Relationship  <input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Parentage/Paternity <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child: _____
Employment  <input checked="" type="checkbox"/> Discrimination <input checked="" type="checkbox"/> Retaliation <input checked="" type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment:	<input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property	<input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other: _____	<input type="checkbox"/> Probate & Mental Health  <i>Probate/Wills/Intestate Administration</i> <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings	<input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other: _____
Tax  <input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax				

## 3. Indicate procedure or remedy, if applicable (may select more than 1):

Appeal from Municipal or Justice Court <input type="checkbox"/>	Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment <input type="checkbox"/>	Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover <input type="checkbox"/>
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## 4. Indicate damages sought (do not select if it is a family law case):

Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees <input type="checkbox"/>
Less than \$100,000 and non-monetary relief <input type="checkbox"/>
Over \$100,000 but not more than \$200,000 <input checked="" type="checkbox"/>
Over \$200,000 but not more than \$1,000,000 <input checked="" type="checkbox"/>
Over \$1,000,000 <input type="checkbox"/>

## Instructions for Completing the Texas Civil Case Information Sheet

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing. If the original petition, application or post-judgment petition or motion is e-filed, the case information sheet must not be the lead document.

This sheet, required by Rule 78a of the Texas Rules of Civil Procedure, is intended to collect information that will be used for statistical and administrative purposes only. It neither replaces nor supplements the filings or service of pleading or other documents as required by law or rule. The sheet does not constitute a discovery request, response, or supplementation, and it is not admissible at trial.

The attorney or self-represented (*pro se*) plaintiff/petitioner filing the case or post-judgment petition or motion should complete the sheet as follows:

### 1. Contact information

**a) Contact information for person completing case information sheet.** Enter the following information:

- name;
- address;
- city, state, and zip code;
- email address;
- telephone number;
- fax number, if available;
- State Bar number, if the person is an attorney; and
- signature. (NOTE: When a case information sheet is submitted electronically, the signature may be a scanned image or “/s/” and the name of the person completing the case information sheet typed in the space where the signature would otherwise appear.)

**b) Names of parties in the case.** Enter the name(s) of the:

(NOTE: If the name of a party to a case is confidential, enter the party's initials rather than the party's name.)

- plaintiff(s) or petitioner(s);
- defendant(s) or respondent(s); and
- in child support cases, additional parties in the case, including the:
  - custodial parent;
  - non-custodial parent; and
  - presumed father.

Attach an additional page as necessary to list all parties.

**c) Person or entity completing sheet is.** Indicate whether the person completing the sheet, or the entity for which the sheet is being completed, is:

- an attorney for the plaintiff or petitioner;
- a *pro se* (self-represented) plaintiff or petitioner;
- the Title IV-D agency; or
- other (provide name of person or entity).

### 2. Case type.

Select the case category that best reflects the most important issue in the case. You must select only one.

### 3. Procedure or remedy.

If applicable, select any of the available procedures or remedies being sought in the case. You may select more than one.

### 4. Damages sought.

Select the damages being sought in the case:

(NOTE: If the claim is governed by the Family Code, do **not** indicate the damages sought.)

- only monetary relief of \$100,000 or less, including damages of any kind, penalties, costs, expenses, pre-judgment interest and attorney fees;
- monetary relief over \$100,000 or less and non-monetary relief;
- monetary relief over \$100,000 but not more than \$200,000;
- monetary relief over \$200,000 but less than \$1,000,000; or
- monetary relief over \$1,000,000.



John H. Crouch, IV  
Board Certified in  
Labor & Employment Law  
[jhc@kilgorelaw.com](mailto:jhc@kilgorelaw.com)  
214-379-0811 – direct dial  
214-379-0844 – direct fax

April 27, 2021

**Via E-File**  
**Dallas County District Clerk**  
600 Commerce St. #103  
Dallas, TX 75202

**Exhibit**

**E**

exhibitsticker.com

Re: *Tori Gandia v. USAC Airways 693, LLC*  
Case # DC-21-04886

Dear Whom It May Concern:

I am requesting a citation for service to the Secretary of State of case # DC-21-04886 to be sent to [jhc@kilgorelaw.com](mailto:jhc@kilgorelaw.com) and [krc@kilgorelaw.com](mailto:krc@kilgorelaw.com). Please let me know if you need additional information.

Best regards,

*/s/ John H. Crouch, IV*

John H. Crouch, IV